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C O N F I D E N T I A L SECTION 01 OF 04 COLOMBO 000473

SIPDIS

DEPARTMENT FOR SCA A/S BOUCHER, SCA/INS AND SCA/RA

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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [MV](#)

SUBJECT: MALDIVES: CONSTITUTION DRAFTING COMPLETE;
PREPARATIONS UNDERWAY FOR AUGUST PRESIDENTIAL ELECTIONS;
REQUEST FOR ELECTION MONITORS

REF: A. COLOMBO 385

[1](#)B. COLOMBO 250

Classified By: Ambassador Robert O. Blake, Jr., for reasons 1.4(b,d).

[1](#)1. (SBU) SUMMARY: The Maldives is now in the midst of final frenetic preparations to ratify its new constitution and then hold the first truly free presidential elections in the country's history in August of this year. The final chapter of Maldives' new constitution passed in the Special Majlis (constitutional assembly) on May 4. At the President's request, the draft was reviewed by the Attorney General's office, which identified over 200 "inconsistencies" that must be addressed by the Special Majlis. Nonetheless, the government hopes to ratify the constitution by the end of May. In late April, the government's Dhivehi Raiyyithunge Party (DRP) used their majority to push through a version of the contentious chapter on transitional arrangements which allows the current president and cabinet to retain their powers until the new president is sworn in on November 11. The opposition National Unity Alliance remains undecided on a consensus presidential candidate. Meanwhile, the GORM says that term limits specified in the new constitution do not apply to President Gayoom and that he can run again. A recent UN Assessment Mission that will prepare a confidential report for the Secretary General told Ambassador that the government faces a tight timetable to first ratify the new constitution and then create the new institutions such as an elections commission, Supreme Court and other institutions that will supervise the August Presidential elections. Nonetheless, they urged that the Maldives keep to the timetable it has set and urged that the Commonwealth, EU and US send election observers to help give the Maldivian people confidence about the conduct of these important elections. The EU and Commonwealth are considering observer missions. Embassy recommends that the US seek to identify funding to send at least a small observer mission. Ambassador will visit Maldives May 19-20 and has requested appointments with the President and senior Ministers to encourage the government to keep to its timetable for establishing the necessary institutions and legislation to ensure free and fair elections. End Summary.

Constitutional Drafting Complete; Presidential Review Underway

[1](#)2. (U) The final chapter of Maldives' new constitution passed in the Special Majlis (constitutional assembly) on May

14. The Special Majlis drafting committee is currently reviewing the draft, according to the Ministry of Legal Reform. The entire draft also was reviewed by the Attorney General's office, at the President's request. A team of eight lawyers produced a document identifying over 200 "inconsistencies" in the draft, including "typing and grammatical errors, terms which may be misinterpreted, conceptual inconsistencies, principles that could prove problematic in implementation, and matters that would require a substantial shift in current government policies." The AG's office said publicly that many concerns relate to the Maldivian Charter of Rights and Freedoms, which is based on the International Covenant on Civil and Political Rights. Attorney General Azima Shukoor has said that no changes will be made to the draft without approval of the Special Majlis. The government intends to ratify the constitution by the end of May, according to Information Minister Mohamed Nasheed.

GORM Wins Debate Over Transitional Arrangements

13. (U) The contentious chapter on transitional arrangements was passed on April 20. The government's Dhivehi Raiyyithunge Party (DRP) used their majority to push through a version which allows the current president and cabinet to retain their powers until the new president is sworn in on November 11. The presidential election must be held before October 10 and will be followed by parliamentary elections before March 31, 2009 and local elections before July 2009. The British and Australian High Commissioners, who recently presented their credentials in Maldives, were told by the

COLOMBO 00000473 002 OF 004

GORM that the new Elections Commission will likely decide to hold the first round of Presidential elections on August 9 (see para 4). If no candidate wins a 50 percent majority, a second runoff will be held on August 23. (Note: the GORM would like to avoid holding elections during Ramadan which falls in September this year.) The new president will appoint a cabinet, which will not include members of parliament. The cabinet will be approved by the current parliament and later by the new parliament. The current parliament will continue until new legislators are elected and convened, no later than May 1, 2009. The current parliament will have 90 days from the introduction of the new constitution to pass timelines for eliminating current laws that conflict with the new constitution, and for passing new legislation required under the new constitution.

14. (U) Proposals have also been passed to provide for new independent commissions, including an elections commission, judicial services commission and anti-corruption commission. An Interim Elections Commission will decide the exact dates of the elections. The five-member Interim Elections Commission will be created within 30 days of introducing the new constitution. Names will be suggested by political parties and ratified by parliament. An Interim Judicial Services Commission will be created within 30 days of introducing the new constitution, and a five-member Interim Supreme Court will be created within 45 days of introducing the new constitution. Judges will be proposed by the Interim Judicial Services Commission and endorsed by parliament.

Opposition Alliance Searching for a Consensus Candidate

15. (U) On April 25, former Maldivian Democratic Party (MDP) Chairperson Mohamed Nasheed (Anni) won his party's nomination as the presidential candidate. On April 30, he proposed teaming up with independent candidate and former Attorney General Hassan Saeed as his running mate, an idea that has met mixed reviews. Some MDP members have said they would have trouble supporting a candidate who had been a part of the Gayoom administration until just last year. The Adhaalath Party, also an Alliance member, has instead suggested that they nominate a running mate for Anni. The

Islamic Democratic Party (IDP) and the Social Liberal Party (SLP), both members of the Alliance, called in early May for a primary election to decide on an Alliance candidate. SLP Leader Ibrahim Ismail has repeatedly said he believes multiple candidates should compete in the presidential polls, leading to a runoff round if no one candidate secures 50 percent of the vote. He said he would consent to one alliance candidate only if selected through a primary. The IDP has suggested nominating Finance Minister Gasim Ibrahim, currently Speaker of the Special Majlis, as the Alliance candidate. Some observers speculate that a final decision is being delayed to see whether Gasim chooses to enter the field. Gasim so far, has not commented on his plans (ref A).

President Cleared to Contest

¶6. (C) Maldivian High Commissioner to Sri Lanka Ali Hussein Didi told Ambassador on May 7 that the Special Majlis voted on April 13 that the current constitution (1998) would be repealed on ratification of the new constitution, resolving the debate over whether the draft in process is an amendment to the current constitution or a new constitution. This means, he said, that the term limits specified in the new constitution do not apply to Gayoom and that he can run again. Opposition groups, however, disagree with this interpretation and say they will consider filing a case with the Supreme Court if the President runs.

Election Planning Begins

¶7. (U) According to the Legal Reform Ministry, the government has sent out invitations to international bodies to observe the upcoming elections. Seven bills are being drafted, in consultation with political parties, to ensure

COLOMBO 00000473 003 OF 004

free and fair elections, including a Presidential Elections Bill, Parliamentary Elections Bills, Electoral Districts Bill, Freedom of Expression Bill, Political Parties Bill, Referendum Bill, and Election Commissions Bill.

¶8. (U) The Ministry of Legal Reform says it is working on 87 bills, 47 of which are implementing legislation required under the new constitution. These bills are at various stages of the legislative process. On May 4, President Gayoom introduced new regulations on freedom of information by presidential decree. The decree was timed to mark Press Freedom Day, following calls from the media to enact freedom of information legislation. The regulation, however, will not take effect until early 2009. Critics have pointed out that the text includes numerous exceptions which undermine the regulations' effectiveness. A law on freedom of information will eventually be introduced in parliament, and once passed, would supersede the decree.

GORM Acknowledges Challenges

¶9. (U) High Commissioner Didi told Ambassador that the government is well aware of the challenges it faces, including the limited timeframe to prepare for elections, the heavy load of legislation that remains to be passed, human, financial and technical resource constraints, the need to create awareness of the process among the public, and the need to develop independent institutions. Nonetheless, he said, the government is committed to timely progress on these issues and looks forward to continued engagement with the international community on the process of reform. The Government has said publicly that although the timetable for presidential elections is short, it is necessary to push ahead. DRP Head Aneesa Ahmed said publicly that the party does not want Gayoom to continue in power after November 11 unless he receives a "fresh mandate from the people."

¶10. (C) A UN assessment team, led by Dr. Jehangir Khan, visited Maldives in early May at the request of the UN Secretary General. Khan met with a variety of officials, including the President, Speaker of the People's Majlis, Speaker of the People's Special Majlis, chair of the Special Majlis drafting committee, the DRP Parliamentary Group leader, the Human Rights Commission and the Civil Service Commission. The team also traveled to Addu Atoll in the South and Haa Dhaalu Atoll in the North. In a meeting with Ambassador on May 9, Khan said Maldivians in both parts of the country expressed skepticism about the reform process and the government's ability to conduct free and fair elections. Most people, he said, had little, if any, understanding of the multi-party system. He said it was apparent from his meetings with senior GORM officials that the President has no intention of losing the election.

¶11. (C) Khan noted UN concern about the tight timeline for the elections and urged Ambassador to push the President to follow through on ratifying the constitution and establishing necessary enabling legislation and institutions. He cited several other obstacles to free and fair elections, including a history of dubious elections, overwhelming Presidential power, and a lack of transparency. He said the UN prefers that election laws and institutions, such as the election commission, are in place in a country at least 1 year prior to elections. In Maldives, the new elections commission would have only a few weeks to prepare for elections, giving them little time to effect any change.

¶12. (C) Khan said the UN's role in the upcoming elections remains undecided, but the most likely scenario would be a "low-key assessment mission." He said the UN worries that if they engage with the current Election Commission, they might discredit themselves with the new Election Commission. The UN is reluctant to engage without knowing the "rules of the game," he said, noting that no one, including the current election commission has seen the draft election law. He said

COLOMBO 00000473 004 OF 004

that the UN does not want the government to be able to "wave a UN flag over a flawed election." Khan said the confidential report his team prepares on the visit will be for the Secretary General only, but interested countries will be briefed on key findings within a few weeks.

Request for Election Observers

¶13. (U) Given that these will be the first ever truly contested Presidential elections and given the very short period that the new Election Commission and other Maldivian institutions will have to prepare for these elections, the UN team recommended, and we agree, that the Commonwealth, EU and the U.S. in particular should make every effort to provide elections observers to help give confidence to the people of the Maldives that this election will be conducted in a free and fair manner. President Gayoom and other senior government officials have repeatedly welcomed the presence of such monitors and stated their intention to conduct free and fair elections.

¶14. (U) The Ambassador met on May 15 with representatives of the EU, Canada, Australia and several other Missions to discuss what plans individual countries are making to support the election process. EU Head of Mission Wilson reported that the EU sent a legal expert for three months to help prepare the way for elections, and will send three further experts in mid June to help election preparations. He said they will focus on training poll workers, hearing and responding to voter complaints, and voter education. They will work out of the Maldivian Election Commission. The EU also has agreed to send two people to report on the elections

themselves. Wilson acknowledged that the EU thus far has not approved sufficient resources to allow an election monitoring mission. However, some members of the European Parliament are pressuring the EU to mount a monitoring effort. Wilson expects a decision on whether to do this by the end of May. Wilson also reported that the Commonwealth Secretariat is considering a full election observation mission with a twenty person team, as well as the alternative of a smaller expert mission that would comprise approximately eight persons.

¶15. (U) The Embassy recommends that the Department explore the possibility of sending at least a small election observer mission from the United States. President Gayoom and senior ministers have repeatedly told the Ambassador that they would welcome a U.S. observer mission from NDI, the Carter Center, or any other established US election observer center. Embassy would appreciate guidance from the Department on whether funding would be available for such a mission. We would be pleased to provide a more detailed justification, should funding be available.

¶16. (C) COMMENT: The completion of the draft constitution is a significant accomplishment. Unfortunately, the delay in completion has shortened the timeline for election preparation. The GORM seems to determined to push forward on August elections despite this short timeline. Ambassador will visit Maldives May 19-20 and has requested appointments with the President and senior Ministers to encourage the government to keep to its timetable for establishing the necessary institutions and legislation to ensure free and fair elections.

BLAKE